

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ABHINAV KUMAR, PT**  
10425 Harris Road  
Chesaning, Michigan 48616  
Physical Therapist License No. PT 22501

Respondent.

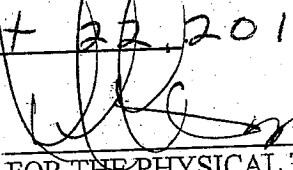
Case No. 1D-2011-70305

OAH No. 2011100834

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs as its Decision in this matter.

This Decision shall become effective on September 21, 2012  
It is so ORDERED August 22, 2012

  
\_\_\_\_\_  
FOR THE PHYSICAL THERAPY BOARD OF  
CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 GAIL M. HEPPELL  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
**PHYSICAL THERAPY BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D-2011-70305

12 **ABHINAV KUMAR, PT**  
10425 Harris Road  
13 Chesaning, Michigan 48616  
Physical Therapist License No. PT 22501

OAH No. 2011100834  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

14 Respondent.  
15

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Rebecca Marco (Complainant) is the Executive Officer of the Physical Therapy  
21 Board of California. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Jannsen Tan,  
23 Deputy Attorney General.

24 2. Respondent Abhinav Kumar, PT (Respondent) is represented in this proceeding by  
25 attorney Edgardo Gonzalez, Esq., whose address is: 1300 Clay Street, Suite 600, Oakland, CA  
26 94612

27 3. On or about June 13, 1997, the Physical Therapy Board of California issued Physical  
28 Therapist License No. PT 22501 to Abhinav Kumar, PT (Respondent). The Physical Therapist

1 License was in full force and effect at all times relevant to the charges brought in Accusation No.  
2 1D-2011-70305 and will expire on March 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 1D-2011-70305 was filed before the Physical Therapy Board of  
5 California (Board), Department of Consumer Affairs, and is currently pending against  
6 Respondent. The Accusation and all other statutorily required documents were properly served  
7 on Respondent on September 26, 2011. Respondent timely filed his Notice of Defense contesting  
8 the Accusation.

9 5. A copy of Accusation No. 1D-2011-70305 is attached as exhibit A and incorporated  
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and understands the  
13 charges and allegations in Accusation No. 1D-2011-70305. Respondent has also carefully read,  
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
15 Disciplinary Order.

16 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
20 the attendance of witnesses and the production of documents; the right to reconsideration and  
21 court review of an adverse decision; and all other rights accorded by the California  
22 Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

25 CULPABILITY

26 9. Respondent admits the truth of each and every charge and allegation in Accusation  
27 No. 1D-2011-70305.  
28

10. Respondent agrees that his Physical Therapist License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physical Therapist License No. PT 22501 issued to Respondent Abhinav Kumar, PT (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. RESTRICTION OF PRACTICE- PRESENCE OF PHYSICAL THERAPIST-

Within thirty (30) calendar days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by whom Respondent's practice would be supervised. The Board will advise Respondent within fourteen (14) business days whether or not the proposed supervisor and plan of supervision are approved. Respondent shall not practice until receiving notification of Board approval of Respondent's choice of a supervisor and plan of supervision. Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding Respondent's and the supervisor's requirements and reporting responsibilities. The plan of supervision shall be direct and require the physical presence of the supervising physical therapist in the physical therapy office during the time physical therapy is performed. Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies. Each proposed supervisor shall be a California licensed physical therapist who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least five (5) years and not have ever been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself is not a reason to deny approval of an individual as a supervisor. The supervisor shall be independent, with no prior business or professional relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of Respondent. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a

1 new supervisor has been approved by the Board. All costs of the supervision shall be borne by  
2 Respondent.

3 2. RESTRICTION OF PRACTICE – PROHIBITION OF HOME CARE

4 Respondent shall not provide physical therapy services in a patient's home.

5 3. RESTRICTION OF PRACTICE - SOLO PRACTICE

6 The respondent shall be prohibited from engaging in the solo practice of physical therapy.

7 4. RESTRICTION OF PRACTICE - PROHIBITION OF SELF EMPLOYMENT OR  
8 OWNERSHIP

9 Respondent shall not be the sole proprietor or partner in the ownership of any business that  
10 offers physical therapy services. Respondent shall not be a Board member or an officer or have a  
11 majority interest in any corporation that offers or provides physical therapy services.

12 5. RESTRICTION OF PRACTICE - NO SUPERVISION OF PHYSICAL THERAPIST  
13 LICENSE APPLICANTS, PHYSICAL THERAPIST ASSISTANT LICENSE APPLICANTS

14 Respondent shall not supervise any physical therapist license applicants or physical  
15 therapist assistant license applicants during the entire period of probation. Respondent shall  
16 terminate any such supervisory relationship in existence on the effective date of this Decision.

17 6. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF  
18 PHYSICAL THERAPIST ASSISTANTS

19 Respondent shall not supervise any physical therapist assistants during the entire period of  
20 probation. Respondent shall terminate any such supervisory relationship in existence on the  
21 effective date of this Decision.

22 7. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF  
23 PHYSICAL THERAPY AIDES

24 Respondent shall not supervise any physical therapy aides during the entire period of  
25 probation. Respondent shall terminate any such supervisory relationship in existence on the  
26 effective date of this Decision.

27 8. EDUCATION COURSE

28 Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the

1 Board, or its designee, for prior approval, a physical therapy remedial educational program  
2 (including date, title, and length of course(s) in the content of Sexual Harassment which shall  
3 not be less than eight (8) hours. Respondent shall supply documentation verifying satisfactory  
4 completion of coursework. Respondent shall be responsible for costs incurred of the course(s).  
5 Course hours shall not satisfy the Continuing Competency requirements pursuant to B&P 2676 as  
6 a condition for renewal of license.

7 If Respondent fails to provide documentation verifying satisfactory completion of the  
8 coursework, Respondent shall be suspended from the practice of physical therapy until  
9 documentation verifying satisfactory completion of the coursework is provided.

10 Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the  
11 Board, or its designee, for prior approval, a physical therapy remedial educational program  
12 (including date, title, and length of course(s) in the content of Ethics and Boundaries which shall  
13 not be less than eight (8) hours. Respondent shall supply documentation verifying satisfactory  
14 completion of coursework. Respondent shall be responsible for costs incurred of the course(s).  
15 Course hours shall not satisfy the Continuing Competency requirements pursuant to B&P 2676 as  
16 a condition for renewal of license.

17 If Respondent fails to provide documentation verifying satisfactory completion of the  
18 coursework, Respondent shall be suspended from the practice of physical therapy until  
19 documentation verifying satisfactory completion of the coursework is provided.

#### 20 9. COST RECOVERY

21 Respondent is ordered to reimburse the Board the actual and reasonable investigative and  
22 prosecutorial costs incurred by the Board in the amount of \$3,456.50. Said costs shall be  
23 reduced, however, and the remainder forgiven, if Respondent pays 50% of said costs, or  
24 \$1,728.25, within thirty (30) days of the effective date of this Decision. In the event Respondent  
25 fails to pay within thirty (30) days of the effective date of this Decision, the full amount of costs  
26 shall be immediately due and payable. Failure to pay the ordered reimbursement, or any agreed  
27 upon payment, constitutes a violation of the probation order. The filing of bankruptcy by  
28 Respondent shall not relieve Respondent of his/her responsibility to reimburse the Board. If

1 Respondent is in default of his/her responsibility to reimburse the Board, the Board will collect  
2 cost recovery from the Franchise Tax Board, the Internal Revenue Service, or by any other means  
3 of attachment of earned wages legally available to the Board.

4 10. PROBATION MONITORING COSTS Respondent shall reimburse all costs  
5 incurred by the Board for probation monitoring during the entire period of probation.  
6 Respondent will be billed at least quarterly. Such costs shall be made payable to the Physical  
7 Therapy Board of California. Failure to make ordered reimbursement within 60 days of the  
8 billing shall constitute a violation of the probation order.

9 11. OBEY ALL LAWS

10 Respondent shall obey all federal, state and local laws, the statutes and regulations  
11 governing the practice of physical therapy and remain in full compliance with any court ordered  
12 criminal probation. This condition applies to any jurisdiction with authority over Respondent,  
13 whether it is inside or outside of California.

14 Further, Respondent shall, within five (5) days of any arrest, submit to the Board in writing  
15 a full and detailed account of such arrest.

16 12. COMPLIANCE WITH ORDERS OF A COURT

17 Respondent shall be in compliance with any valid order of a court. Being found in  
18 contempt of any court order is a violation of probation.

19 13. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF  
20 RESTITUTION

21 Respondent shall not violate any terms and conditions of criminal probation and shall be in  
22 compliance with any restitution ordered, payments or other orders.

23 14. QUARTERLY REPORTS

24 Respondent shall submit quarterly declarations under penalty of perjury on forms provided  
25 by the Board, stating whether there has been compliance with all the conditions of probation.

26 15. PROBATION MONITORING PROGRAM COMPLIANCE

27 Respondent shall comply with the Board's probation monitoring program.

28 16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE



Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals.

17. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS

Respondent shall notify all present and future employers of the reason for and the terms and conditions of this probation.

Prior to engaging in the practice of physical therapy, Respondent shall provide a true copy of the of the Accusation and Stipulated Decision and Order to his or her employer, supervisor, or contractor, or prospective employer or contractor, and at any other facility where Respondent engages in the practice of physical therapy before accepting or continuing employment.

Respondent shall provide the probation monitor the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors, or contractors, and shall inform the probation monitor in writing of the facility or facilities at which Respondent will be engaging in the practice of physical therapy for purposes of allowing the probation monitor to communicate with the employer, supervisor, or contractor regarding Respondent's work status, performance and monitoring.

The information will be provided in writing to the probation monitor within ten (10) calendar days and will include written employer confirmation of receipt.

18. NOTIFICATION OF CHANGE OF NAME OR ADDRESS

Respondent shall notify the Board, in writing, of any and all name and/or address changes within ten (10) days of the change.

19. RESTRICTION OF PRACTICE - TEMPORARY SERVICES AGENCIES

Respondent shall not work for a temporary services agency or registry.

20. RESTRICTION OF PRACTICE - CLINICAL INSTRUCTOR OF PHYSICAL THERAPY. STUDENT INTERNS OR FOREIGN EDUCATED PHYSICAL THERAPIST LICENSE APPLICANTS PROHIBITED

Respondent shall not supervise any physical therapy student interns or foreign educated physical therapist license applicants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

1           21. PROHIBITED USE OF ALIASES

2           Respondent shall not use aliases and shall be prohibited from using any name which is not  
3 his/her legally-recognized name or based upon a legal change of name.

4           22. INTERMITTENT WORK

5           If Respondent works less than 192 hours as a physical therapist in a period of three  
6 consecutive months, those months shall not be counted toward satisfaction of the probationary  
7 period. Respondent is required to immediately notify the probation monitor or his or her designee  
8 if he/she works less than 192 hours in a three-month period.

9           23. TOLLING OF PROBATION

10          The period of probation shall run only during the time Respondent is practicing or  
11 performing physical therapy within California. If, during probation, Respondent does not practice  
12 or perform physical therapy within California, Respondent is required to immediately notify the  
13 probation monitor in writing of the date Respondent is no longer practicing or performing  
14 physical therapy within California, and the date of return, if any. Hours spent practicing or  
15 performing physical therapy by Respondent in California prior to notification to the Board of  
16 Respondent's return will not be credited toward completion of probation. Any order for payment  
17 of cost recovery shall remain in effect whether or not probation is tolled.

18          24. VIOLATION OF PROBATION

19          Failure to fully comply with any component of any of the probationary terms and  
20 conditions is a violation of probation.

21          If Respondent violates probation in any respect, the Board, after giving Respondent notice  
22 and the opportunity to be heard, may revoke probation and carry out the disciplinary order that  
23 was stayed. If an accusation or petition to revoke probation is filed against Respondent during  
24 probation, the Board shall have continuing jurisdiction until the matter is final, and the period of  
25 probation shall be extended until the matter is final.

26          25. REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT, HEALTH OR  
27 OTHER REASONS

28          Following the effective date of this probation, if Respondent ceases practicing or

1 performing physical therapy due to retirement, health or other reasons or is otherwise unable to  
2 satisfy the terms and conditions of probation, Respondent may request to surrender his/her license  
3 to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its  
4 discretion whether to grant the request, or to take any other action deemed appropriate and  
5 reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms  
6 and conditions of probation shall be tolled until such time as the license is no longer renewable,  
7 Respondent makes application for the renewal of the tendered license or makes application for a  
8 new license.

9 26. COMPLETION OF PROBATION

10 Respondent shall comply with all financial obligations required by this order (e.g., cost  
11 recovery, restitution, probation costs) not later than 180 calendar days prior to completion of  
12 probation unless otherwise specified in this order. Upon successful completion of probation,  
13 Respondent's license shall be fully restored.

14 27. CALIFORNIA LAW EXAMINATION - WRITTEN EXAM ON THE LAWS AND  
15 REGULATIONS GOVERNING THE PRACTICE OR PERFORMANCE OF PHYSICAL  
16 THERAPY

17 Within ninety (90) days of the effective date of this decision, respondent shall take and pass  
18 the Board's written examination on the laws and regulations governing the practice of physical  
19 therapy in California. If Respondent fails to pass the examination, Respondent shall be  
20 suspended from the practice of physical therapy until a repeat examination has been successfully  
21 passed. Respondent shall pay the costs of all examinations.

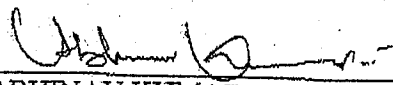
22 28. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE ON  
23 PROBATION

24 It is not contrary to the public interest for Respondent to practice and/or perform physical  
25 therapy under the probationary conditions specified in the disciplinary order. Accordingly, it is  
26 not the intent of the Board that this order, the fact that Respondent has been disciplined, or that  
27 Respondent is on probation, shall be used as the sole basis for any third party payor to remove  
28 Respondent from any list of approved providers.

1 ACCEPTANCE

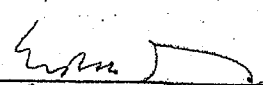
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Edgardo Gonzalez, Esq.. I understand the stipulation and the effect  
4 it will have on my Physical Therapist License. I enter into this Stipulated Settlement and  
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Physical Therapy Board of California.

7  
8 DATED: 6/18/12

  
9 ABHINAV KUMAR, PT  
Respondent

10 I have read and fully discussed with Respondent Abhinav Kumar, PT the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13 DATED: 6/18/12

  
14 Edgardo Gonzalez, Esq.  
15 Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Physical Therapy Board of California of the Department of  
19 Consumer Affairs.  
20  
21  
22  
23  
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27  
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Dated:

6/20/2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GAIL M. HEPPELL  
Supervising Deputy Attorney General

JANNSEN TAN  
Deputy Attorney General  
*Attorneys for Complainant*

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10905740.doc

**Exhibit A**

**Accusation No. 1D-2011-70305**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GAIL M. HEPPELL  
Supervising Deputy Attorney General  
3 JANNSEN L. TAN  
Deputy Attorney General  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
SACRAMENTO, CA September 26, 2011  
BY C. Guirraento ANALYST

8 **BEFORE THE**  
9 **PHYSICAL THERAPY BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1D-2011-70305

13 **ABHINAV KUMAR, P.T.**  
14 **10425 Harris Road**  
15 **Chesaning, MI 48616**

**ACCUSATION**

16 **Physical Therapy License No. PT 22501**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Rebecca Marco (Complainant) brings this Accusation solely in her official capacity  
21 as the Interim Executive Officer of the Physical Therapy Board of California.

22 2. On or about June 13, 1997, the Physical Therapy Board, Department of Consumer  
23 Affairs, State of California (Board) issued Physical Therapy License Number PT 22501 to  
24 Abhinav Kumar, P.T. (Respondent). The physical therapy license was in full force and effect at  
all times relevant to the charges brought herein and will expire on March 31, 2013.

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26 ///

27 ///

28 ///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

5. Section 2660 of the Code states:



1 The board may, after the conduct of appropriate proceedings under the Administrative  
2 Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary  
3 conditions upon any license, certificate, or approval issued under this chapter for unprofessional  
4 conduct that includes, but is not limited to, one or any combination of the following causes:

5 ...

6 (d) Conviction of a crime that substantially relates to the qualifications, functions, or duties  
7 of a physical therapist or physical therapist assistant. The record of conviction or a certified copy  
8 thereof shall be conclusive evidence of that conviction.

9 ...

10 (m) The commission of verbal abuse or sexual harassment.

11 ...

12 6. Section 2661 of the Code states:

13 A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
14 charge of a felony or of any offense which substantially relates to the qualifications, functions, or  
15 duties of a physical therapist or physical therapy assistant is deemed to be a conviction within the  
16 meaning of this article. The board may order the license suspended or revoked, or may decline to  
17 issue a license, when the time for appeal has elapsed, or the judgment of conviction has been  
18 affirmed on appeal or when an order granting probation is made suspending the imposition of  
19 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that  
20 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
21 verdict of guilty, or dismissing the accusation, information, or indictment.

22 7. Section 2661.5 of the Code states:

23 (a) In any order issued in resolution of a disciplinary proceeding before the board, it may  
24 request the administrative law judge to direct any licensee found guilty of unprofessional conduct  
25 to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and  
26 prosecution of the case.

27 (b) The costs to be assessed shall be fixed by the administrative law judge and shall not in  
28 any event be increased by the board. When the board does not adopt a proposed decision and

1 remands the case to an administrative law judge, the administrative law judge shall not increase  
2 the amount of the assessed costs specified in the proposed decision.

3 (c) When the payment directed in an order for payment of costs is not made by the  
4 licensee, the board may enforce the order of payment by bringing an action in any appropriate  
5 court. This right of enforcement shall be in addition to any other rights the board may have as to  
6 any licensee directed to pay costs.

7 (d) In any judicial action for the recovery of costs, proof of the board's decision shall be  
8 conclusive proof of the validity of the order of payment and the terms for payments.

9 (e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the  
10 license or approval of any person who has failed to pay all of the costs ordered under this section.

11 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew  
12 or reinstate for a maximum of one year the license or approval of any person who demonstrates  
13 financial hardship and who enters into a formal agreement with the board to reimburse the board  
14 within that one year period for those unpaid costs.

15 (f) All costs recovered under this section shall be deposited in the Physical Therapy Fund  
16 as a reimbursement in either the fiscal year in which the costs are actually recovered or the  
17 previous fiscal year, as the board may direct.

18 8. California Code of Regulations, title 16, section 1399.20, states:

19 For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5  
20 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially  
21 related to the qualifications, functions or duties of a person holding a license under the Physical  
22 Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a  
23 person to perform the functions authorized by the license or approval in a manner consistent with  
24 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
25 following:

26 (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.

28 (b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with

1 the practice of physical therapy.

2 (c) Violating or attempting to violate any provision or term of the Medical Practice Act.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 **[Bus. & Prof. Code, §§ 490, 2660, subd. (d), 2661; Cal Code Regs., tit. 16 § 1399.20]**

6 9. Respondent is subject to disciplinary action under sections 490, 2660, subdivision (d),  
7 2661, and California Code of Regulations, title 16, section 1399.20 in that on or about September  
8 28, 2010, he was convicted of one count of Prostitution/Accosting & Soliciting in the State of  
9 Michigan 70th Judicial District, Saginaw District case no. 10-007220-SM. The circumstances are  
as follows:

10 10. Victim, "L" was contacted by Respondent regarding her ad on Craigslist for house  
11 cleaning. Respondent hired L to clean his house at 10425 Harris Road. L was scheduled to clean  
12 Respondent's home regularly at or around 7 to 11 pm.

13 11. After about one week of working for the Respondent, Victim L was propositioned by  
14 Respondent that he would help pay for L's bills if she agreed to have sexual intercourse with him.  
15 L stated that she only wanted a professional working relationship. Respondent agreed and did not  
16 say anything more about his proposition.

17 12. On or about August 11, 2010, L was downstairs cleaning Respondent's home and  
18 talking on the phone to one of her friends. Respondent came up from behind her and wrapped  
19 both of his arms around her upper body. L was surprised and dropped her phone. Respondent  
20 then turned her around to face him and then grabbed her nose with his hand and stated "You are  
21 so cute." Respondent then pulled her towards him and began kissing her neck and left ear.  
22 Respondent asked if they could have sex tonight. L pushed him away and told him to stop  
23 because it made her feel uncomfortable.

24 13. L proceeded to run upstairs and began to cry as she attempted to put her shoes and  
25 leave. Respondent then came up the stairs and as she was walking out the door, he paid her, and  
26 told her that he would give her a call tomorrow to let her know if she needed to come back to  
27 clean.

1        14. On or about August 12, 2010, a misdemeanor complaint was filed against Respondent  
2 in the State of Michigan 70th Judicial District, county of Saginaw, case no. 10-7220SM for two  
3 (2) counts of Prostitution/Accosting & Soliciting.

4        15. On or about September 28, 2010, Respondent pled guilty to one count of  
5 Prostitution/Accosting & Soliciting. Respondent was sentenced to 5 days in jail plus costs and 6  
6 months of supervised probation.

7        16. Respondent's conviction Prostitution/Accosting & Soliciting is substantially related  
8 to the qualifications, functions, or duties of a physical therapist within the meaning of section  
9 490, 2660, subdivisions (d), 2661, and California Code of Regulations, title 16, section 1399.20.

10                                    **SECOND CAUSE FOR DISCIPLINE**  
11                                    **(Unprofessional Conduct-Sexual Harassment)**  
12                                    **[Bus. & Prof. Code, § 2660, subd. (m),]**

13        17. Complainant realleges paragraphs 10-13 above, as if fully set forth. Respondent is  
14 subject to disciplinary action under Business and Professions Code section 2660 (m) for  
15 unprofessional conduct in that his acts as described above constitute sexual harassment.

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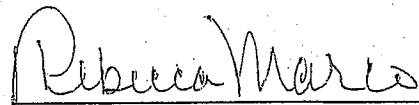
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PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physical Therapy License Number PT 22501, issued to Abhinav Kumar, P.T.;
2. Ordering Abhinav Kumar, P.T. to pay the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: September 26, 2011



Rebecca Marco  
Interim Executive Officer  
Physical Therapy Board of California  
State of California  
*Complainant*

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